

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ALBERTO RESTO,

Plaintiff,

v.

9:08-CV-340 (LEK/GHL)

WEISSMANE, Doctor, Upstate C.F.;  
N. SMITH, Nurse Administrator, Upstate  
C.F.; CHESSBOARD, Registered Nurse,  
Upstate C.F.; WALSH, Registered Nurse,  
Upstate C.F.,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on November 14, 2008 by the Honorable George H. Lowe, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 16). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff Alberto Resto, which were filed on November 20, 2008. Objections (Dkt. No. 17).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation

should be approved for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 16) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

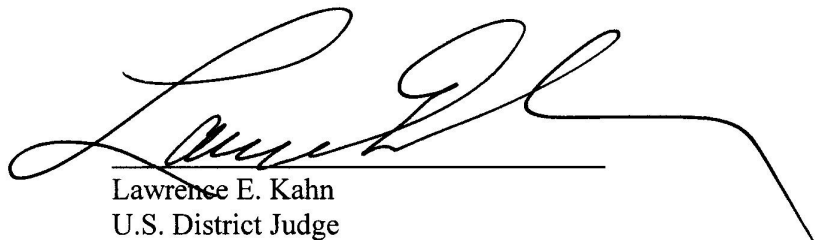
**ORDERED**, that the Plaintiff's Amended Complaint (Dkt. Nos. 12-13) is *sua sponte* **DISMISSED**; and it is further

**ORDERED**, that Plaintiff's Motion for leave to proceed *in forma pauperis* (Dkt. No 14) is **DENIED as moot**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: December 10, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge